

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



April 3, 2003

County of Cook, a body politic and corporate,
Petitioner,

Vs.

Elgin, Joliet and Eastern Railway Company, a Delaware Corporation,
Respondent.

T03-0004

Petition for an Order requesting to install a pedestrian crossing
adjacent to Main Street in the Village of Matteson, Illinois.

TO ALL PARTIES OF RECORD:

ADMINISTRATIVE LAW JUDGE'S PROPOSED ORDER

Attached is a copy of the Administrative Law Judge's Proposed Order in the
above referenced matter.

The Administrative Law Judge's Proposed Order is being sent to you pursuant to
the Commission's Rules of Practice (83 Ill. Adm. Code 200). Your case is a "contested
case" or "licensing case" as defined in Section 200.40 of the Rules and, therefore, the
Hearing examiner is required under Section 200.820 to issue a Proposed Order to all
parties.

Under Section 200.830 of the Rules, exceptions to the Proposed Order and
replies thereto may be filed by the parties within the time periods established by the
rules of such other times as fixed by the hearing examiner. The times for filing
exceptions and replies are fixed at seven days and seen days, respectively.

Entered:

June B. Tate

June B. Tate
Administrative Law Judge
Review & Examination Program

JBT:rsc

Railroad Staff: Mr. Daniels

BN

DOCKETED

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

County of Cook, a body politic and corporate,
Petitioner,

Vs.

T03-0004

Elgin, Joliet and Eastern Railway Company, a Delaware
Corporation,
Respondent.

Petition for an Order requesting to install a pedestrian crossing adjacent
to Main Street in the Village of Matteson, Illinois.

PROPOSED ORDER

By the Commission:

On January 22, 2003, the County of Cook, Illinois, a body politic and corporate ("Petitioner" or "the County") filed the above-captioned verified petition with the Illinois Commerce Commission ("Commission") naming as Respondent the Elgin, Joliet and Eastern Railway Company ("the Railway").

Pursuant to notice, the matter came on for hearing before a duly authorized Administrative Law Judge of the Commission at the Commission's Chicago office on March 19 and 31, 2003. Petitioner was represented by counsel. An appearance was entered by Brian Vercruysse, Railroad Safety Specialist of the Commission's Transportation Division, Railroad Section and by Thomas W. Hunter, Head Engineer of the Railway's Signal, Communication, and Electrical Department. Testimony and evidence were presented by Mark M. Johnson, Highway Engineer of the Cook County Highway Division and by Mr. Hunter. At the conclusion of the hearing on the aforementioned latter date, the record was marked "Heard and Taken."

Mr. Johnson testified that the County proposes construction of a sidewalk in the Village of Matteson, Illinois, at Main Street, approximately three-quarters (3/4) of a mile south of Sauk Trail Road. There is an existing rubberized surface at the crossing and ditch draining. There is now a sidewalk north and south of the tracks, but not at the crossing. The new pavement will provide safer pedestrian access from the nearby park and residential area.

The total cost of the project is approximately \$3,950,000, which will be borne by the County. No funds are requested or forthcoming from the Railway or the Grade Crossing Protection Fund. Contracts are to be let in late May; construction will begin July 1, and completion is expected by November 30,

2003. Improvements will include replacing the rubber crossing surface and upgrading of the automatic flashing light signals and gates.

Mr. Hunter testified that there are two mainline tracks at the subject crossing and one connecting or yard track. Traffic on the main lines consists of twenty to twenty-four (20-24) trains daily at a maximum speed of forty-five miles per hour (45 mph). On the yard track, there are four trains daily, traveling at a maximum speed of ten miles per hour (10 mph). The tracks travel in an east-west direction.

Mr. Hunter testified that there will be minimal interference with Railway operations since work at the crossing can be conducted when there is no train traffic. Replacement of the crossing surface will require approximately four days of full road closure. There are north and southbound signals. At each of the three tracks, there are single gates and masts, and automatic flashing light signals.

The Railway has no opposition to the proposed project and by reason of the nearby residential area and park, the sidewalk will afford safer access for pedestrians.

The Commission, having considered the evidence of record, is of the opinion and finds that:

- (1) the County of Cook, Illinois, is a political subdivision organized and existing under and by virtue of the laws of the State of Illinois;
- (2) the Elgin, Joliet and Eastern Railway Company is a Delaware corporation engaged in the transportation of persons and/or property by rail in the State of Illinois and as such, is a rail carrier as defined by the Illinois Commercial Transportation Law;
- (3) the Commission has jurisdiction of the subject matter and parties herein;
- (4) the recitals of fact set forth in the prefatory portion of this Order are supported by evidence of record and are hereby adopted as findings of fact;
- (5) it is in the interest of public safety and convenience that a sidewalk be installed at Main Street in the Village of Matteson, Illinois;
- (6) it is fair and reasonable that the entire cost of the installation of the sidewalk and the improvement of the protective devices be borne by the County of Cook, Illinois;

- (7) it is fair and reasonable that the entire cost of the future maintenance of the sidewalk be borne by the Village of Matteson, Illinois;
- (8) it is fair and reasonable that the entire cost of the future maintenance of the pedestrian warning systems be borne by the Elgin, Joliet and Eastern Railway Company;
- (9) the proposed project should be completed on or before November 30, 2003;
- (10) Chapter 625 ILCS 5/18c-1701 and 5/18c-1704 of the Law require each "person" as defined by 5/18c-1104 to comply with every regulation or order of the Commission; these sections further provide that any person who fails to comply with a Commission regulation or order shall forfeit to the State not more than \$1,000 for each such failure, with each day's continuance of the violation being considered a separate offense; while the Commission expects all parties to comply with this Order in all matters addressed herein and in a timely manner, the Commission advises that any failure to comply may result in the assessment of such sanctions.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the County of Cook is required and directed to construct a pedestrian sidewalk at Main Street, approximately three-quarters of a mile south of Sauk Trail Road, in the Village of Matteson, Illinois.

IT IS FURTHER ORDERED that the County of Cook and the Elgin, Joliet and Eastern Railway Company are required and directed to immediately proceed with the work required of each of them.

IT IS FURTHER ORDERED that the cost of the installation of the pedestrian sidewalk and the upgrade of the pedestrian warning devices be, and the same is hereby, the sole responsibility of the County of Cook.

IT IS FURTHER ORDERED that the cost of the future maintenance of the proposed sidewalk be, and the same is hereby, the sole responsibility of the Village of Matteson.

IT IS FURTHER ORDERED that the Elgin, Joliet and Eastern Railway Company is hereby required and directed to proceed with the project herein approved and in all aspects thereof to conform to the requirements of 92 Illinois Administrative Code ("I.A.C.") 1535.

IT IS FURTHER ORDERED that all work required of the Railway and the County shall be completed on or before November 30, 2003.

IT IS FURTHER ORDERED that Elgin, Joliet and Eastern Railway Company and the County of Cook, Illinois shall at three (3) month intervals from the date of this Order until the project has been completed, submit written reports to the Director of Processing, Transportation Division of the Commission stating the progress it has made toward completion of the work herein required. Each progress report shall include the Commission Order number, the Order date, the project completion date as noted in the Order, crossing information (inventory number and railroad milepost), type of improvement, and project manager information (name, title, mailing address, telephone number, and facsimile number) of the employee responsible for management of the project.

IT IS FURTHER ORDERED that the Elgin, Joliet and Eastern Railway Company shall within five (5) days of the completion of the work herein, file with the Commission's Director of Processing, Transportation Division, a letter advising the Commission of Completion of the installation.

IT IS FURTHER ORDERED that any person making a Request for Extension of Time up to thirty (30) days to complete a project ordered by the Commission must file a request with the Director of Processing no later than fourteen (14) days in advance of the scheduled deadline. An Administrative Law Judge will consider and decide the request.

IT IS FURTHER ORDERED that any person requesting an Extension of Time which exceeds thirty (30) days must file a Petition for Supplemental Order with the Director of Processing no later than twenty-one (21) days in advance of the scheduled deadline. The Commission will decide Petitions for Supplemental Orders.

IT IS FURTHER ORDERED that Requests for Extension of Time and Petitions for Supplemental Orders must include the reason(s) the additional time is needed to complete the work and the time within which the project will be completed. Prior to submitting a Request for Extension or a Petition for Supplemental Order, the person must notify the Commission's Rail Safety Program Administrator that it is unable to complete the project within the ordered timeframe.

IT IS FURTHER ORDERED that Requests for Extension of Time and Petitions for Supplemental Orders must include the reason(s) the additional time is needed to complete the work and the time within which the project will be completed. Prior to submitting a Request for Extension or a Petition for Supplemental Order, the person must notify the Commission's Rail Safety Program Administrator that it is unable to complete the project within the ordered timeframe.

IT IS FURTHER ORDERED that the Administrative Law Judge reserves the right to deny Requests for Extension of Time and Petitions for Supplemental Orders if the reason(s) supporting the request is insufficient or where it appears the person has not made a good faith effort to complete the project within the allotted time. Failure of the Administrative Law Judge to act on a pleading prior to the deadline means the originally ordered completion date remains in effect.

IT IS FURTHER ORDERED that the Commission shall retain jurisdiction for the purpose of issuing any supplemental order or orders as it may deem necessary.

IT IS FURTHER ORDERED that in accordance with Chapter 625 ILCS 5/18c-2201 and 5/18c-2206 of the Illinois Commercial Transportation Law, this is a final Order subject to the Administrative Review Law.

By Order of the Commission this day of 2003.

Chairman